

**Remarks/Arguments:**

These remarks are responsive to the Office Action of February 19, 2009. Applicants note with appreciation that the rejection of claim 10 under 35 USC Section 112 and the rejection of claims 1, 2, 10, 13, and 14-16 under 35 USC Section 102(b) have been withdrawn.

Claims 1 and 4 are amended. Support for the amendment of claim 1 is found at paragraphs [0037] and [0039] of the specification. Support for the amendment of claim 4 is found at paragraph [0041] of the specification. Reference to paragraph numbers of the specification herein refer to the published application, US 2007/0026069. Claim 13 is cancelled. Claims 14-18 are amended to correspond to the amendment of claim 1 and to remove dependency on cancelled claim 13. Claims 22 and 25 are amended to correspond with amended claim 1, from which they depend.

Claims 1-25 stand rejected under 35 USC Section 112, second paragraph, as indefinite. Specifically, Claims 1, 4, and 13 are found indefinite and claims 2-25 depend from claim 1. Claims 1 and 4 have been amended to obviate this rejection, and claim 13 has been cancelled. Applicants therefore request that the Section 112 rejections of claims 2-25 for indefiniteness be withdrawn.

Claims 1, 2, 5-8, and 20 stand rejected under 35 USC Section 102(b) as anticipated by Eppstein (US 4,962,091). Applicants traverse this rejection for the reasons given below.

"To anticipate a claim, the reference must teach every element of the claim." MPEP Section 2131. Claim 1, as amended, is directed to a three-dimensional construct comprising a polymeric matrix and a particle comprising a chemical functional group, wherein the particle has a diameter of about 5 nm to about 10 microns and is a) coated with at least one monomolecular layer comprising biological information and b) dispersed in the polymeric matrix at a density of at least 0.01 vol %.

In contrast, Eppstein discloses a composition of polypeptide particles that are dispersed in a matrix (Eppstein, col. 5, lines 47-50), and also teaches that other water-soluble solid components may be dispersed in the matrix (Eppstein, col. 9, lines 52-61). Eppstein does not disclose coating a particle with a monomolecular layer comprising biological information and dispersing the coated particles in a matrix. Accordingly, Eppstein does not teach every element

Appln. No.: 10/550,923  
Amendment Dated August 17, 2009  
Reply to Office Action of February 19, 2009

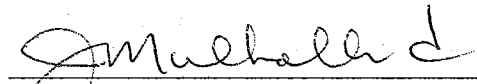
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of Applicants' claims and cannot anticipate Applicants' claims. Therefore, Applicants request that the 102(b) rejection of claims 1, 2, 5-8 and 20 be withdrawn.

### Conclusion

For these reasons, it is respectfully submitted that the claims are in condition for immediate allowance and a notice to this effect is solicited. The Examiner is invited to phone applicants' attorney if it is believed that a telephonic interview would expedite prosecution of the application.

Respectfully submitted,



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Dated: August 17, 2009

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The Director is hereby authorized to charge or credit Deposit Account No. **18-0350** for any additional fees, or any underpayment or credit for overpayment in connection herewith.

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